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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,992	09/06/2002	Christopher David Price	71522-1	1843
20915	7590	04/04/2005	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			NGUYEN, DAVID Q	
			ART UNIT	PAPER NUMBER
			2681	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/064,992

**Applicant(s)**

PRICE, CHRISTOPHER DAVID

**Examiner**

David Q Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 12/14/04 have been fully considered but they are not persuasive.

In response to Applicant's Remark on page 1, Applicants argue: "In all of the claims, a status response message is transmitted *automatically*, without any input from the called party. Because this feature is not shown in Kim, the reference does not anticipate the claims."

Examiner respectfully **disagrees** because Kim clearly discloses status response message transmitted *automatically*, without any input from the called party (see par. 0036 and 0037). In par. 0037, Kim mentions that the caller may be notified that the requested call is not available and instructed to leave a voice or text message. It is apparent that there is no input from the called party.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7 and 9-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim (US 2002/0006782 A1).

Regarding claim 1, Kim discloses a method of status enquiry between a plurality of subscriber communication units in a wireless communication system, the method comprising the steps of: transmitting a status enquiry from a first subscriber communication unit to a second subscriber communication unit (see paragraphs 0036, 0038 and 0039); receiving said status enquiry at said second subscriber communication unit (see paragraphs 0041 and 0042); and transmitting a status response message back to said first subscriber communication unit in response to said status enquiry (see paragraphs 0036-0037).

Regarding claim 2, Kim also discloses wherein the step of transmitting a status response message automatically is performed without a second subscriber communication user input (see paragraphs 0036-0037).

Regarding claim 3, Kim also discloses displaying at said first subscriber communication unit, upon receipt of the status response message, a status indication of said second subscriber communication unit (see paragraphs 0028 and 0053).

Regarding claim 4, Kim also discloses displaying at said second subscriber communication unit, upon receipt of said status enquiry message, an indication that a status enquiry message has been received (see paragraphs 0028 and 0042).

Regarding claim 5, Kim also discloses transmitting said status enquiry message from said first subscriber communication unit via infrastructure in said wireless communication system to said second subscriber communication unit; and/or transmitting said status response message from said second subscriber communication unit via infrastructure in said wireless communication system to said first subscriber communication unit (see paragraphs 0038 to 0046).

Regarding claim 6, Kim also discloses providing a user of said second subscriber communication unit with an ability to input status information to be included in a response to a status enquiry message (see paragraph 0043).

Regarding claim 7, Kim also discloses wherein said status enquiry message is transmitted in the form of a short message service message (see paragraph 0039).

Regarding claim 9, Kim also discloses the method further comprising the step of: making a number of features of said status enquiry message or said status response message user-configurable (see paragraphs 0038 to 0046).

Regarding claim 10, Kim also discloses wherein said user-configurable features include at least one of: (i) an ability to transmit or receive status enquiry calls at a particular time of a day, or a particular day in a week, (ii) whether a status enquiry message and/or a status enquiry response should be displayed to a user, (iii) whether a subscriber communication unit is accepting calls, (iv) whether a subscriber communication unit is accepting priority calls, (v) when a subscriber communication unit will start accepting calls, (vi) whether a subscriber communication unit is arranged to play, for example, a ring tone on receiving a call, or (vii) whether a subscriber communication unit is muted (see paragraphs 0038 to 0046).

Regarding claim 11, Kim also discloses storing said status enquiry message and/or said status response message in either an element in the infrastructure of said wireless communication system for subsequent re-transmittal to a requesting or destination subscriber unit or in said first or second subscriber communication unit for subsequent retrieval by a user (see paragraphs 0038 to 0046).

Regarding claim 12, Kim also discloses tagging at least one phonebook entry or call register relating to said status enquiry message such that it can be transmitted at a time of a day, or periodically, to allow a user to be kept informed as to the availability of at least one other subscriber communication unit (see paragraphs 0038 to 0046).

Regarding claims 13-14, Kim also discloses wireless communication system adapted to facilitate the status enquiry method steps of claim 1; a subscriber communication unit adapted to perform any of the method steps of claim 1 (see abstract and explanation in claim 1).

Regarding claims 15 and 21, Kim discloses a subscriber communication unit comprising: a controller for controlling transmission or reception of a status enquiry message or a status response message (fig. 2, controller 100 and explanation in claim 1); and a transmitter circuit, operably coupled to said controller, transmitting a status response message automatically back to another wireless remote communication unit (see fig. 3 and explanation in claim 1); and a receiver circuit, operably coupled to said controller, receiving an automatic status response message transmitted from another wireless remote communication unit (see fig. 3; pars. 0036-0037).

Regarding claim 16, Kim also discloses the subscriber communication unit further comprising: a controller for controlling transmission or reception of a status enquiry message or a status response message; and a receiver circuit, operably coupled to said controller, receiving said status enquiry message or a status response message from another wireless remote communication unit (see paragraphs 0038 to 0046 and fig. 2).

Regarding claims 17 and 22, Kim also discloses the subscriber communication unit further comprising: a memory device storing status information relating to at least one other subscriber communication unit (see paragraphs 0038 to 0046 and fig. 2).

Regarding claims 18 and 23, Kim also discloses wherein the memory device stores a phone book feature or call register feature related to said or at least one other subscriber communication unit that a user of said subscriber communication unit may access (see paragraphs 0027, 0038 to 0046 and fig. 2).

Regarding claims 19 and 24, Kim also discloses wherein the memory device stores a list of options in a menu accessible from said memory device, wherein said list of options includes a status enquiry option to initiate said status enquiry message (see paragraphs 0027, 0038 to 0046 and fig. 2).

Regarding claims 20 and 25, Kim also discloses wherein the subscriber communication unit is one of: a cellular phone, a portable or mobile radio, a personal digital assistant or a laptop computer (see abstract).

Regarding claim 26, Kim also discloses a storage medium storing processor-implementable instructions for controlling a processor to carry out the method of claim 1 (see explanation in claim 1 and fig. 2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (US 2002/0006782 A1).

Regarding claim 8, Kim does not disclose identifying said status enquiry message as being a status enquiry in a header portion of said short message service message. Official Notice is taken that identifying said status enquiry message as being a status enquiry in a header portion of said short message service message is well known in the art (see US 6636521, col. 7, lines 57-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching to Kim's method so that it is easy for user to recognize the status enquiry.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q Nguyen whose telephone number is 703-605-4254. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Moise Emmanuel can be reached on 703-306-0003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DN

David nguyen

  
EMMANUELLE L. MOISE  
PRIMARY EXAMINER